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## **Article I. In General.**

### **Sec. 20-1. Authorization of special capital improvement projects by law.**

(a) *Purpose.* The purpose of charter section 302 is to afford citizens an easier opportunity than previously existed to petition especially important capital improvement projects to referendum while assuring that public consideration may be fully informed, and also without unnecessarily disrupting the orderly planning, design and construction which is the objective of capital improvements programming.

(b) *Definition.*

1. A "special capital improvement project" as used in this section shall include the costs relating to the detailed architectural and engineering design, construction, reconstruction or equipment of the following types of capital projects:

a. Major facilities estimated to cost at least four million dollars (\$4,000,000.00) in county funds, exclusive of interest on county bonds; provided, however, that the county executive shall, by annual executive order, adopted no later than October 15, revise the four-million-dollar cost criterion to reflect the annual change in the latest published composite construction cost index established by the United States department of commerce or its successor as publisher. County funds for the purpose of this section include the proceeds of county bonds or notes and unappropriated surplus and current county revenues, exclusive of contributions, gifts or grants from federal or state governments or any other sources.

b. Facilities, other than major facilities described above, which the council determines to possess unusual characteristics or to be of sufficient public importance to warrant designation as special capital improvements projects.

2. All buildings, roads, utilities, parks and related improvements which are proposed for development on a single, unified site and which are identifiable as separate facilities shall be considered for designation as special capital improvement projects. Site

acquisition costs shall be included as a part of the total cost of a special capital improvement project; however, the cost of site acquisition itself shall not be subject to the requirements of this section. Preliminary planning costs relating to capital projects shall not be included in determining the total cost of a special capital improvement project. Unless explicitly required by law, special capital improvement projects do not include the capital projects of the Revenue Authority or any agency created by state law or authorized by interstate compact, including, Montgomery College, Board of Education for Montgomery County, Maryland-National Capital Park and Planning Commission, Washington Suburban Sanitary Commission, the housing opportunities commission of Montgomery County, Washington Suburban Transit Commission, and the Washington Metropolitan Area Transit Authority.

(c) *Procedure.*

1. The county executive shall be responsible for submitting to the county council, at the time the capital improvement program or amendments thereto are submitted, proposed legislation for each project which falls within the category of a special capital improvement as defined in this section and for which it is proposed to appropriate funds for purposes other than preliminary planning or site acquisition costs, unless the project has been previously authorized as a special capital improvement project.

2. Until such time as an appropriation is made for the detailed architectural and engineering design of a capital improvement project, other than a major facility as described in subsection 20-1(b)1.a., any council member may introduce legislation to authorize such capital improvement project as a special capital improvement project.

3. Any authorization enacted under this section is valid for 5 years after the authorization becomes law, except that an authorization for a project funded substantially by revenue bonds is valid until modified or revoked by law. The Council may reauthorize a project before or after an existing authorization expires. An authorized project need not be reauthorized if a contract for construction of the project is executed before the authorization expires.

4. If a project is approved by the affirmative vote of 6 Councilmembers, and the Council declares that the project is of an emergency nature and its immediate approval is necessary to protect the public health or safety, the project is not subject to the authorization requirement in this section.

5. No special capital improvement project shall receive an appropriation unless a law authorizing the project has been enacted by the county council. The resolution adopting any such appropriation shall contain an explicit requirement that no funds shall be expended under the appropriation until the authorization law has become effective.

6. Any project not previously considered a special capital improvement project and which has received an appropriation must be authorized pursuant to this section before any construction contract is executed if the estimated cost of the total project is revised to exceed the four million dollars (\$4,000,000.00) cost criterion or any subsequent revision thereto exclusive of preliminary planning costs, after completion of either the design or architectural and engineering stages of the project. Unless a project is previously authorized pursuant to this section, the county executive or the county council may not transfer funds to or authorize a supplemental appropriation for such a project prior to the award of a construction contract if the cost of the total project exceeds the four million dollars (\$4,000,000.00) cost criterion or any subsequent revision thereto exclusive of preliminary planning costs when the cost reflected by such transfer or appropriation is included in the total estimated cost.

(d) *Application.* The provisions of this section 20-1 shall not apply to a capital project which has met the cost criterion requirements of subsection 20-1(b)1.a. and has received an initial appropriation prior to the effective date of this section, provided that any change in the scope of such a project, the cost of which change exceeds the cost criterion requirement set forth in subsection 20-1(b)1.a., shall be subject to the provisions of this section. (1977 L.M.C., ch. 37, §2; 1979 L.M.C., ch. 51, § 1; FY 1991 L.M.C., ch. 11, § 1; 1992 L.M.C., ch. 35, §3; 1994 L.M.C., ch. 23, § 1.)

**Editor's note**—For the effective date of 1992 L.M.C., ch. 35, § 3, which amended subsection (b)2. of this section, see the editor's note to ch. 42 of this Code.

## **Sec. 20-2. Settlement of claims by county attorney.**

(a) On behalf of the county, the county attorney is hereby authorized to effect a settlement of all claims by or against the county and all court cases to which the county is a party where the amount of the claim or the amount involved in the suit is not more than five thousand dollars (\$5,000.00) and when the county attorney's judgment it is proper and advisable to do so. The county attorney is further authorized to effect, with the approval of the county executive,

a settlement of all other claims by or against the county and all other court cases to which the county is a party, when in the county attorney's judgment and that of the county executive it is advisable and proper to do so. In court cases in which the members of the county council are parties in their capacity as such, the county attorney is hereby authorized to effect settlement on their behalf upon the approval of the council, except in cases where each member of the council may be personally liable or responsible, in which cases settlement shall be made only on behalf of each member approving such settlement.

(b) The authority granted by this section shall apply to all future and past settlements.

(Mont. Co. Code 1965, § 84-4; 1971 L.M.C., ch. 4, § 1; 1979 L.M.C., ch. 13, § 1.)

### **Sec. 20-3. Disbursements from revolving fund of department of liquor control.**

The county executive, the director of finance, and the director of the department of liquor control shall have authority, by concurrent action, to designate persons in the department of liquor control who may disburse money from the revolving fund to be established pursuant to subsection (e) of section 165 of article 2B of the Annotated Code of Maryland, 1957; provided, that the signature of at least two (2) persons shall be required for any disbursement. (Mont. Co. Code 1965, § 84-6; 1969 L.M.C., ch. 40, § 6.)

### **Sec. 20-4. Annual inventory.**

Every official and the head of every department, board or commission of the county shall, during the month of July of each year, furnish the director of finance a detailed list of all property under his custody or control or used by him or his subordinates, owned by the county or any agency thereof, which list shall be in such form as the director of finance shall prescribe and shall be certified as true and correct by the head of each department or official furnishing same. (Mont. Co. Code 1965, § 6-1; 1941, ch. 740.)

## **Article II. Deposit of Funds.**

### **Sec. 20-5. Deposit of county funds generally.**

(a) *Generally.* The director of finance shall deposit all moneys, checks, drafts and other receipts in such qualified banks or banking



institutions in the United States of America to be designated as hereinafter provided.

(b) *Designation of depositories, etc.* The director of finance shall designate from time to time such banks and banking institutions as are qualified to be county depositories and the extent to which each is qualified to receive county funds. He shall immediately remove from such designation any bank or banking institution which fails to maintain the security provision hereinafter provided and shall immediately withdraw county funds from such bank or banking institution to the extent necessary to conform to this section; provided, however, that the council shall by resolution establish a policy for determining the proportionate distribution of county funds maintained in qualified depositories, which policy shall be followed by the director of finance within the limitation of the security provision herein contained.

(c) *Security to be maintained; amount, form, etc.* A bank or banking institution to qualify as a county depository shall furnish in advance of deposit of county funds, security in an amount not less than the amount of county funds to be deposited; and shall at all times maintain such security in an amount not less than the total amount of all county funds on deposit in such depository; provided, that any bank or banking institution which is prohibited by law from pledging any of its assets to secure deposits of public money of a state or subdivision thereof may be designated by the council upon recommendation of the director of finance, as a depository to hold county funds on deposit in an amount not to exceed two hundred fifty thousand dollars (\$250,000.00) at any one time. The form of such security shall be in one or a combination of the following:

(1) *Surety Bond.* A surety bond in a form approved by the county attorney executed by a surety or guarantee company qualified to transact business in the state; the bond to run to the county and to guarantee payment on demand of all sums on deposit, in the event such bank or banking institution fails to make such payment for any reason or cause whatsoever.

(2) *Federal Deposit Insurance.* Federal deposit insurance as to such amount as is not in excess of the coverage limited to any one (1) depositor.

(3) *Bonds.* Bonds at face value or market value, whichever is less, of the United States Government or bonds or certificates of the state or bonds, notes or certificates of indebtedness of any county or municipality or other subdivision of the state; such bonds to be

pledged to the county for the security of county money and to be placed for safekeeping in a safe deposit box in the banking institution, which box shall have a dual key lock and may be opened only by an official of the bank jointly with the director of finance or his duly designated representative; or in the alternative like securities may be placed in some other bank, banking institution or trust company under escrow agreement whereby such securities shall be held for the protection of county money and shall be released only by the joint authority of the depository and the director of finance of the county or his duly designated representative. The substitution of bonds, notes or other securities of a kind other than those designated in this section shall be permitted only upon the approval by unanimous vote of the council members in office.

(d) *Procedure where county money exceed amount of security.* If at any time the director of finance shall receive money belonging to the county exceeding the amount of the security furnished by county depositories, and no bank or banking institution shall furnish security or additional security to cover the amount for deposit, the director of finance may deposit such moneys in any bank or banking institution in the United States of America having a combined capital and surplus of not less than one million dollars (\$1,000,000.00) without the security required by the preceding paragraph (c); but the director of finance shall within three (3) days after making such deposit without security notify the county executive or his designee. It shall be the duty of the county executive or his designee to cooperate with the director of finance in locating as promptly as possible a depositor willing and able to provide the security required in the preceding subsections hereof.

(e) *Funds in trust.* Banks or banking institutions receiving county funds in trust for payment of principal and interest on bonds or other obligations of the county shall not be required to furnish security therefor; nor shall security be required of banks or banking institutions to secure county funds which are deposited for transmittal forthwith to corresponding banks, qualified as county depositories.

(f) *Agreements as to interest, etc.; disposition of amount accrued.* If any bank or banking institution which is a county depository shall agree to pay interest upon the monthly balance of county deposits or upon a reserve deposit of a fixed amount for a stated period of time, the director of finance is authorized to enter into agreements with such depositories for the payment of interest to the county and such interest, when and if received, shall be treated as general revenue of the county. At such time as the county shall have

on deposit funds not needed for immediate expenditure, the director of finance is authorized to invest such funds until the time they will be needed in such securities as are now or may hereafter be authorized by applicable public general and local laws, or in such other securities as may be authorized by resolution of the county council. Such authority shall extend to the investment of proceeds of the county bonds or other obligations, to trust funds and to other special as well as general funds of the county. All such securities shall be placed in safekeeping with one of the designated depositories of the county or shall be kept in a safe deposit box in any bank or banking institution of the county, leased for the exclusive use of the county, and to be opened by the director of finance jointly with some other county official to be designated by the county executive.

(g) *Segregation of funds.* The director of finance shall not be required to segregate money for various appropriations or various funds in separate bank accounts, but shall keep account of such segregation in the regular financial records of the county. (Mont. Co. Code 1965, § 2-102; 1906, ch. 171, § 62F; 1912, ch. 790, § 134; 1920, ch. 706, § 134; 1931, ch. 385; 1933, ch. 541, § 204; 1939, ch. 662; 1969 L.M.C., ch. 40, § 1.)

#### **Sec. 20-6. Amount of deposits; proportionate distribution.**

(a) There shall be maintained in each of the designated depositories a minimum balance of ten thousand dollars (\$10,000.00). There shall also be maintained such balances deemed necessary by the director of finance for the efficient operation of the county, for which, the director of finance with the approval of the county executive may provide minimum balances between ten thousand dollars (\$10,000.00) and three hundred thousand dollars (\$300,000.00) for banks in such cases as the amount or nature of the services rendered make it necessary or advisable, and provided there are sufficient county funds to maintain this minimum. After these provisions, any remaining balances shall be distributed in proportion to the deposits of the respective banks or branch offices of banks located in the county; except, that for any bank or branch offices of banks with deposits exceeding fifty million dollars (\$50,000,000.00) the figure fifty million dollars (\$50,000,000.00) shall be used for the purpose of this distribution; provided, that no depository shall receive more than five hundred thousand dollars (\$500,000.00) under this provision; provided further, that it shall not be necessary to redistribute funds for the purpose of maintaining proportionate distribution more than once quarterly.

(b) Except as may be required by the limitations of security provisions and temporarily for purposes of immediate deposit of large sums or for the liquidation of county debt, not more than five hundred thousand dollars (\$500,000.00) shall be deposited outside of the county when the total county deposits are three million five hundred thousand dollars (\$3,500,000.00) or less. When county deposits exceed this sum, any portion of the amount in excess of three million dollars (\$3,000,000.00) may be deposited in Washington, New York or Baltimore.

(c) When a depository has made a loan to the county, it will be permitted to keep the funds loaned on deposit to the credit of the county until such funds are expended for the purpose borrowed; provided, that the sum is not in excess of the security furnished by the depository. This is an exception to the general proportionate distribution policy.

(d) When a depository has furnished additional collateral to accept the proceeds of a bond

issue or other large deposit, the funds should not be immediately withdrawn merely for the purpose of proportioning deposit. The depository should be allowed to retain such funds not required to be immediately disbursed for a period of ninety (90) days before any apportionment is made.

(e) Regardless of the provisions of subsection (a) of this section, it shall not be necessary to place more than one-fourth of all county funds deposited locally in a single bank. (Mont. Co. Code 1965, § 84-3; Res. No. 5-2815; 1969 L.M.C., ch. 40, § 5.)

#### **Sec. 20-7. Sale of securities upon failure of bank; issuance of certificates of indebtedness.**

In any case where a bank or banking institution has failed or shall hereafter fail having funds of the county on deposit, the council shall have power to sell at such price and at such time as it deems for the best interests of the county, any bonds or other securities pledged as security for such deposit. The council is further authorized and empowered to issue at one time or from time to time negotiable certificates of indebtedness of the county in an amount not exceeding the amount of county funds on deposit with such failed bank or banking institution not theretofore repaid to the county. Such certificates of indebtedness shall mature not more than five (5) years from their date and may be renewed from time to time, and new certificates of indebtedness may be issued from time to time for the

payment of any such certificates of indebtedness, but all such certificates of indebtedness shall mature within the time herein limited for the maturity of the original certificates of indebtedness. Such certificates of indebtedness shall bear interest at a rate not exceeding six (6) percent per annum, payable annually or at shorter intervals, and shall be sold in such manner as the council shall determine; the council shall by resolution fix the form of such certificates of indebtedness, the officers by whom they shall be executed, the medium of payment and the place in the state or any other state at which principal and interest shall be payable. All money received from the sale or other disposition of the bonds or other securities held as security for such deposit or received on account of any indemnity bond given to secure such deposit shall be kept in a separate fund and applied solely to the payment of the principal and interest of such certificates of indebtedness and renewals thereof. In each or any year after the issuance of such certificates of indebtedness the council may, if it shall deem it to be in the best interest of the county, include in the annual tax levy an amount sufficient to provide for the payment of the interest thereon as the same shall fall due and any or all of the principal thereof. If prior to the adoption of the appropriation resolution for the fiscal year during which the certificates shall become due and not renewable under the provisions of this article a sufficient amount has not been realized from the sale of securities or other sources to meet the principal and interest of such certificates of indebtedness remaining unpaid, there shall be included for this purpose in the annual tax levy an amount equal to the principal and interest of such certificates remaining unpaid reduced by the amount of money already on hand for such purpose. (Mont. Co. Code 1965, § 2-103; 1933, ch. 259, § 12.)

### **Article III. Borrowing of Money Generally.**

#### **Sec. 20-8. Temporary borrowing-Generally.**

At any time after the issuance of bonds has been authorized by a local law enacted by the council in legislative session and it is the purpose and intent of the council to issue and sell bonds as indicated by a resolution of the council, the council may borrow money for the purpose for which the bonds are authorized to be issued in anticipation of the receipt of the proceeds of the sale of the bonds and within the maximum authorized amount of the bond issue; the council may retire all or any part of such loans through current revenues or other funds, in which event the bond issue, when and if the same are sold, shall be reduced by the amount of such loans retired. Negotiable notes or certificates of indebtedness shall be issued for all such loans and the

council shall be resolution provide for the form and maturity, not exceeding five (5) years, the execution and the rate of interest thereon, not exceeding six (6) percent per annum; may sell the same, with or without advertisement, in any manner it deems to be in the best interest of the county; and shall have the right to reissue or renew the same provided all of the notes or certificates of indebtedness shall mature within the time herein provided. (Mont. Co. Code 1965, § 2-104; 1933, ch. 544, § 1.)

#### **Sec. 20-9. Same-Levy of tax for payment.**

All of the notes issued under the provisions of the preceding section shall be the direct and general obligations of the county and as to all of them in the event sufficient funds are not received from the anticipated sources the council is hereby directed to levy a tax at the next period for levying county taxes at a rate sufficient to provide for the payment of the principal and interest for all of the outstanding notes or certificates of indebtedness. (Mont. Co. Code 1965, § 2-105; 1933, ch. 544, § 3.)

#### **Sec. 20-10. Same-For current obligations.**

(a) The council is hereby authorized and empowered to borrow upon its faith and credit such sum at any time, or from time to time, as the council may in its discretion determine, subject to the limitations hereinafter set forth, to be necessary to provide funds for the payment of the current obligations of the county, in anticipation of the collection of taxes or other current revenues, and to issue and sell notes therefor. The council is authorized and empowered to provide by resolution for the issuance of notes to bear interest at a rate not exceeding six (6) percent per annum, payable at the time of the issuance of the notes or thereafter, and the council is further authorized and empowered to provide by resolution for the issuance of renewal notes with like limitations as to interest, when the council shall deem it necessary to so provide for the payment of any such notes or renewal notes theretofore issued; provided, that all such renewal notes shall mature within the time hereinafter limited for the ultimate maturity of the notes, in renewal of which renewal notes are issued, except as hereinafter provided. Such notes shall mature not later than ninety (90) days after the expiration of the fiscal year in which the same are issued and shall not thereafter be renewable or payable by the issuance of renewal notes; except, that any such renewal notes, authorized by this section and sections 20-11 and 20-12 and issued within three (3) months prior to the expiration of any one (1) fiscal year, for the purpose of providing for the payment of

notes authorized by this section and sections 20-11 and 20-12 and issued during the fiscal year, may mature at any time during the fiscal year next succeeding the fiscal year in which the original notes were issued. Before the passage of any resolution authorizing the issuance of the notes the director of finance shall submit to council a statement showing:

(1) The amount of uncollected taxes for the current fiscal year, if theretofore levied, but otherwise the amount of the tax levy for the preceding fiscal year, regardless of what part thereof shall have been collected;

(2) The estimated amount of uncollected revenue for the current fiscal year, excepting taxes;

(3) The face value of all notes issued pursuant to the authority contained in this section during the current fiscal year and which by their terms are payable within one (1) year and three (3) months from the date of their respective issuances, as herein provided.

(b) The substance of such statement by the director of finance shall be recited in the resolution, and it shall be further recited that the face value of the notes so authorized by the resolution, together with the amount of item (3) above, do not exceed in the aggregate seventy-five (75) percent of the total of items (1) and (2) above, and no funds shall be borrowed in anticipation of taxes and no notes issued therefor by the council if the face value of such notes, together with the amount of item (3) above shall exceed seventy-five (75) percent of the total of items (1) and (2) above.

(c) Such notes and renewal notes may be sold by the council at such time at public or private sale, and in such form and upon such terms as the council may determine to be for the best interest of the county; provided, that all of the limitations hereinbefore or hereinafter set forth shall be complied with; and, provided further, that such notes or renewal notes shall not be sold at less than par value, except upon a vote of a majority of the members of the council, and; provided further, that all such notes or renewal notes shall recite upon their face that they are issued pursuant to the authority and in compliance with all of the conditions and limitations contained in this section and sections 20-11 and 20-12. The proceeds of the sale of renewal notes shall be applied solely to the payment of the note for the retirement of which renewal notes are issued.

(d) Notes and renewal notes shall be and remain the obligations of the county issued upon its full faith and credit, and the entire property subject to taxation in the county shall be liable for the payment thereof and the council shall levy a tax upon all property subject to assessment by it sufficient to provide funds for the payment of the principal and interest of the notes or renewal notes as they respectively mature in each and every year that such notes or renewal notes are outstanding; provided, that the amount of the tax so levied may be reduced in any one (1) year by the amount of collected or uncollected tax revenue, which the council shall appropriate for the purpose of paying such notes as they respectively mature, and the interest thereon. (Mont. Co. Code 1965, § 2-106; 1933 (Sp. Sess.), ch. 12, § 1.)

#### **Sec. 20-11. Same-New or renewal notes, etc.**

(a) The council is hereby authorized and empowered from time to time to borrow money upon the faith and credit of the county and to issue and sell negotiable notes therefor in an amount not to exceed three hundred thousand dollars (\$300,000.00) in any one (1) fiscal year and to be known as "Montgomery County certificates of indebtedness." Such notes shall be in such denominations and shall bear such rates of interest, not exceeding six (6) per centum per annum, payable at the time of the issuance of such notes or thereafter, as may be determined by the council to be for the best interests of the county. Subject to the limitations hereinafter set forth, such notes may be issued at one time or from time to time and in such form, and may be sold in such manner, either at public or private sale, as the council of the county may by resolution determine. Such notes shall mature within not more than five (5) years from their respective dates, and such notes may be renewed from time to time, and new notes may be issued at such times, in payment thereof; provided, that all such notes and renewals thereof shall mature within five (5) years from the date of the issuance of such original notes; and, provided further, that the proceeds of the sale of such new or renewal notes shall be applied solely to the payment of the notes for the retirement of which such new or renewal notes are issued. Prior to the issuance of the notes the council shall pass a resolution reciting that, in the opinion of the council, it is deemed necessary to expend certain specific sums for certain functions of the county government for which no appropriation or an insufficient appropriation has been made in the annual appropriation resolution and that an emergency appropriation is necessary to provide for the functions, and the resolution may authorize the issuance and sale of the notes provided for herein to provide funds to meet the emergency appropriation; provided, that the



amount of the notes authorized to be issued and sold in such resolution shall not exceed the amount of the emergency appropriation authorized therein.

(b) Notes and new or renewal notes shall be and remain the obligations of the county issued upon its full faith and credit, and the entire property subject to taxation in the county shall be liable for the payment thereof, and the council shall levy a tax upon all property subject to assessment in the county sufficient to provide funds for the payment of the principal and interest of all such notes whenever issued, as they respectively mature, in each and every year that any of such notes are outstanding. If any of such notes issued in any one (1) fiscal year, or if any such new notes issued in renewal thereof shall not have been paid within four (4) years from the date of the original notes issued in such one (1) fiscal year, the council shall include in the next annual tax levy thereafter a tax in an amount sufficient to provide for the payment of all of such notes so issued in such one (1) fiscal year or the renewals thereof to the end that such notes or any renewals thereof shall mature and be paid within not more than five (5) years from the date of the original notes as hereinbefore provided. (Mont. Co. Code 1965, § 2-107; 1933 (Sp. Sess.), ch. 12, § 2.)

#### **Sec. 20-12. Notes exempt from taxation.**

Any and all of the notes issued pursuant to the provisions of sections 20-8, 20-10 and 20-11 and the interest thereon shall be and remain exempt from state, county and municipal taxes of every kind whatsoever in the state. (Mont. Co. Code 1965, § 2-108; 1933 (Sp. Sess.), ch. 12, § 3.)

#### **Sec. 20-13. Employment of agents or brokers.**

The county executive shall be authorized and empowered to employ, whenever he deems such employment for the best interests of the county, an agent or broker to assist in negotiating or selling any bonds, certificates of indebtedness or notes of the county and to pay for the services of such agent or broker out of the proceeds of sale or out of any other available funds of the county; provided, that the amount so paid in connection with the sale of the bonds shall not exceed one-half of one (0.5) percent of the face amount thereof, and in connection with the sale of certificates of indebtedness and notes, shall not exceed one-half of one (0.5) percent of the face amount thereof. (Mont. Co. Code 1965, § 2-109; 1933, ch. 158; 1969 L.M.C., ch. 40, § 2.)

#### **Sec. 20-13A. Montgomery County commercial paper.**

(a) The county may for any public purpose borrow money and may issue in evidence thereof negotiable, unsecured, promissory notes in the form of commercial paper. Such notes shall be hereinafter referred to as "Montgomery County commercial paper." No commercial paper issued under the authority of this section shall have a maturity of more than one (1) year. Commercial paper may not be issued unless authorized by resolution of the county council. A separate resolution is not required for each issuance of commercial paper, provided the total amount of outstanding commercial paper does not exceed the amount previously authorized by resolution. The authority to issue commercial paper shall be exercised, from time to time, in the manner established by this section.

(b) The resolution authorized by subsection (a) of this section shall delegate to the county executive the power to enter into all agreements which may be necessary to secure and market the commercial paper authorized by this section. The provisions of chapter 11B of the Montgomery County Code as amended, shall be applicable to the selection of a dealer and shall be inapplicable to the issuance, securing or marketing of such paper. Such resolution shall also delegate to the county executive the authority to fix, by order, the terms, maturity, interest rates, method of issuance and sale and other conditions applicable to the commercial paper hereby authorized or the method by which such matters are to be fixed and determined.

(c) The commercial paper issued pursuant to the authority contained in this section shall be issued upon the full faith and credit of the county. The entire property subject to assessment and taxation within the county shall be liable for the payment of the principal of and interest on the commercial paper issued pursuant to the authority contained in this section. The council shall levy a tax upon all such property in rate and amount sufficient to provide funds for the payment of such principal and interest of the commercial paper at maturity.

(d) If the proceeds of any Montgomery County commercial paper are used to finance, in whole or in part, public facilities as that term is defined in this chapter 20, such Montgomery County commercial paper may be redeemed from proceeds resulting from the issuance of general obligation bonds of Montgomery County, and the full faith and credit and unlimited taxing power of Montgomery County shall be pledged for the payment of such bonds. The general obligation bonds authorized by this section shall be issued in accordance with section 20-14 to section 20-21, inclusive, of this chapter or pursuant to law duly enacted by the council.

(e) The commercial paper issued pursuant to the authority contained in this section, and the interest thereon, shall be and remain exempt from state, county and municipal taxes of every kind whatsoever in this state.

(f) The authority contained in this section shall be in addition and supplementary to any other authority vested in the county to borrow money, and no statutory requirements of advertisement or public sale which are applicable to the issuance and sale of other public debt by the county shall be applicable to the issuance and sale of the Montgomery County commercial paper hereby authorized.

(g) The total amount of Montgomery County commercial paper issued and outstanding under the provisions of this section shall never at any one time exceed fifty million dollars (\$50,000,000.00). (1983 L.M.C., ch. 54, § 1.)

#### **Article IV. Financing Public Facilities Generally.**

##### **Sec. 20-14. Definition of "public facilities."**

As used herein, the term "public facilities" shall mean the following:

(a) The construction, reconstruction, improvement, extension, alteration, repair, purchase, conversion and modernization of public school buildings or buildings for school purposes, including the sites therefor, the cost of acquiring any such buildings or sites, architectural and engineering services, including preparation of plans, drawings and specifications for such schools or the conversion or modernization thereof and the development of the grounds, and all customary permanent appurtenances and recreational and pedagogical equipment for such schools;

(b) The construction, improvement, repair, opening, relocation, grading, resurfacing, widening, extension and drainage of all public roads, streets, highways and sidewalks in the county now or hereafter maintained and operated by or under the jurisdiction of the county, including the acquisition of necessary rights-of-way, the acquisition of equipment for highway construction, maintenance and repair and planning and engineering services; the planning, design, construction and reconstruction of free bridges constituting parts of such roads, streets or highways; the planning, construction, repair and permanent improvement of any storm water drainage systems necessary in the county;

(c) The construction, reconstruction, extension, acquisition, improvement, enlargement, alteration, repair and modernization of any structures to house any of the functions of or for the use of the county government or administration, especially health clinics, rescue squads, fire engine houses and police stations, airports and landing fields, parks and recreational facilities, or any combination of the foregoing, including the acquisition and development of sites therefor, the architectural and engineering services incident thereto and the acquisition and installation of necessary furnishings, fire fighting and rescue squad equipment and fixed permanent equipment therefor;

(d) The construction, reconstruction, improvement, extension, enlargement, alteration, conversion, modernization, repair, relocation, grading, resurfacing, widening, draining, and acquisition (including the preparation of plans, architectural and engineering services) of transit facilities which are defined to be all those matters and things utilized in rendering mass transit service by means of rail, bus, water or air and any other mode of travel, including without limitation, tracks, rights-of-way, bridges, tunnels, subways, rolling stock for rail, motor vehicle, marine and air transportation, stations, terminals and ports, areas for parking and all equipment, fixtures, buildings and structures and services incidental to or required in connection with the performance of mass transit service; and any part of the county's share of contributions agreed to be made under any contracts or agreements by the Washington Suburban Transit District to the capital required for the construction or acquisition of transit facilities (as defined in this subsection or as may be defined in chapter 870 of the Laws of Maryland of 1965, as the same may be amended from time to time) in the Washington metropolitan area, as provided by chapter 870 of the Laws of Maryland of 1965, as amended from time to time;

(e) The construction, reconstruction, improvement, extension, acquisition, enlargement, alteration, repair, modernization, relocation, grading, resurfacing, widening and drainage of off-street parking lots and facilities for the parking of automobiles and other vehicles, within and for the parking lot districts heretofore or hereafter established by law as the same are described in section 60-1 of the Montgomery County Code as amended from time to time, including the acquisition and development of sites therefor, the architectural and engineering services incident thereto and the acquisition and installation of necessary furnishings and fixed permanent equipment therefor;

(f) The planning, acquisition, construction, improvement, repair and extension of facilities, including the sites therefor, for public

housing or housing for persons of low, moderate or eligible incomes, as defined pursuant to law;

(g) The planning, acquisition, construction, improvement, repair and extension of water systems and facilities and sewerage systems and facilities. (Mont. Co. Code 1965, § 2-111; 1968 L.M.C., Ex. Sess., ch. 2 § 1; 1971 L.M.C., ch. 23, § 1; 1974 L.M.C., ch. 39, § 1; 1975 L.M.C., ch. 13, § 1; 1975 L.M.C., ch. 16, § 1.)

**Editor's note**—The Washington Suburban Transit District Act is contained in Appendix N to this Code.

### **Sec. 20-15. Borrowing money and issuing bonds-Authority.**

With regard to any County borrowing authorized bylaw on the full faith and credit of the County to finance the public facilities defined in the preceding section, the County must evidence that borrowing or indebtedness by the issuance of its general obligation serial maturity bonds. Subject to the terms and conditions in this Section, the County Executive must determine the terms and conditions of any such bonds, the interest payable thereon and the advertising for their sale. Any such bonds may be issued under the authority of this division and for the purposes enumerated in the preceding section at any time, within the limitations provided by law.

All action taken pursuant to this Article must be taken by order of the County Executive. The County Executive must cause a correct copy of every such order to be filed with the Clerk of the County Council, who must keep a permanent record of all of such orders; and certification by the Clerk is evidence of the authenticity of any such order. (Mont. Co. Code 1965, § 2-112; 1971 L.M.C., ch. 23, § 2; 1998 L.M.C., ch 24, § 1.)

### **Sec. 20-16. Same-Adoption of resolution; notice of conditions and terms of sale of bonds.**

Before borrowing any money or issuing any bonds pursuant to the authority conferred on the county by any law, the county executive shall pass an order describing the public facility for which such borrowing or indebtedness is intended and the amount needed to finance the public facility, and determining to borrow money or incur indebtedness for all or a part of the amount so needed and to issue the county's bonds to evidence such borrowing or indebtedness. Each series or group of bonds shall be issued to mature in annual serial installments, not exceeding thirty (30) and beginning not more than one (1) year from the date of such bonds, as may be determined by

the order of the county executive authorizing such bonds, and no one of such installments shall be less than fifty (50) percent of any other installment. The county executive shall have and is hereby granted full and complete authority and discretion to fix and determine, in the order the form and tenor of any such bonds, the rate of interest payable thereon or the method of arriving at the same, the date upon which the bonds shall respectively mature and be payable, the manner of selling the bonds at public sale and generally all matters incident or necessary to the issuance, sale and delivery thereof. The bonds of each such issue shall be dated, shall bear interest payable semi-annually, shall mature at such time as may be determined by the county executive by order, and such bonds may be made redeemable before maturity, at the option of the county, at such price and under such terms and conditions as may be fixed by the county executive, either in the order authorizing the issuance of the bonds, or in a subsequent order but prior to the issuance of the bonds. The principal of and the interest of such obligations may be made payable in lawful medium. The county executive in such order shall determine the form of such bonds, including any interest coupons to be attached thereto, and the manner of executing and sealing the same, which may be by facsimile, and shall fix the denomination of the bonds and the place of payment of the principal and interest thereon, which may be at any bank or trust company within or without the state. In case any officer whose signature shall appear on any such bond or on coupons attached thereto shall cease to be such officer before the delivery thereof, such signature shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Such bonds may in the discretion of the county executive be issued in coupon or in registered form or both, and provision may be made for the registration of the bonds having coupons attached, as to principal alone and also as to both principal and interest, and for the reconversion of the bonds into coupon form, if any of such bonds shall have been registered as to both principal and interest. Such bonds shall not be subject to the provisions of sections 9, 10 and 11 of article 31 of the Annotated Code of Maryland, 1957, as amended from time to time, but the county executive shall offer such bonds only by solicitation of competitive bids therefore at public sale. Such bonds may be sold for such price as may be determined to be for the best interests of the county, either at, above or below the par value of any such bonds.

In addition to making provision for the above described terms and conditions of any group or series of bonds issued hereunder, the order of the county executive shall likewise fix the terms and conditions of

the public sale of such group or series of bonds and shall adopt a suitable form of notice of sale which shall briefly outline the terms and conditions in accordance with the provisions hereof. Such notice shall be published at least twice in one (1) or more daily or weekly newspapers having a general circulation in the county and may also be published in one (1) or more journals having a circulation primarily among banks and investment bankers. The sale of such bonds shall be held not sooner than ten (10) days following the first publication of such notice. Such notice shall offer the bonds to the highest bidder or bidders therefor and shall state how such highest bidder or bidders will be determined. The notice of sale shall specify the date, place and hour at which bids for the bonds will be received and opened and the bonds awarded. It shall also specify that each bid shall be made in writing by a sealed proposal and shall be accompanied by a good faith deposit in a fixed or determinable amount as security for compliance by the bidder with his bid. The notice shall refer to the authority for the bonds and shall state the date of issue of the bonds offered, the total aggregate par amount thereof, the schedule of maturities thereof, the interest payable thereon or the method of determining the same, the purpose to which the proceeds thereof will be devoted and the general form thereof, including a statement whether such bonds will be redeemable or will be in coupon or registered form, and whether the same will be registerable as to principal or as to both principal and interest. Each such notice of sale shall also contain a brief summary of the current financial condition of the county or shall indicate where such a statement may be obtained and, finally, shall reserve unto the county the right to reject any or all bids received. In lieu of publishing the entire notice of sale, the county executive may, if he shall so elect in the order, publish a brief summary of the notice which summary need not contain all the information required by law to be contained in the notice but which shall state where interested parties may obtain a complete copy thereof. (Mont. Co. Code 1965, § 2-113; 1969 L.M.C., ch. 15, § 1; 1971 L.M.C., ch. 23, § 3.)

#### **Sec. 20-17. Disposition of money borrowed.**

The award of any bonds issued pursuant to this article shall be made by the county executive or by the chief administrative officer of the county, acting with the authority of the county executive, to the bidder submitting the most favorable bid for the county upon a certification by the director of finance, and such order shall fix the interest rate payable on any such bonds.

The money so borrowed or the indebtedness incurred, in evidence of which the bonds shall be issued, shall be paid to the director of

finance of the county and shall be used by the county exclusively and solely for the public facility described in the order of the county executive, and in the event the amounts so borrowed shall prove inadequate for the financing of any such public facility, at any time additional obligations may be issued for the purpose of evidencing the borrowing of additional funds for any such public facility, within limitations provided by law. If the funds derived from the sale of any issue of any such bonds shall exceed the amount needed to finance the public facility so described, the excess funds so borrowed may be set apart by the county and applied in payment of the first principal maturity of the obligations so issued or to the redemption of any part of such bonds, if the same shall have been made redeemable; but the excess funds shall in no event be used for any other county function nor for any other public facility except upon the passage of an order of the county executive to that effect. (Mont. Co. Code 1965, § 2-114; 1971 L.M.C., ch. 23, § 4.)

#### **Sec. 20-18. Security for and method of repayment of principal and interest.**

Bonds heretofore or hereafter authorized and issued pursuant to this article shall constitute, and they shall so recite, an irrevocable pledge of the full faith and credit and unlimited taxing power of the county to the payment of the maturing principal and interest of such bonds as and when the same respectively mature. In each and every fiscal year that any of such bonds are outstanding, the county shall levy or cause to be levied ad valorem taxes upon all the assessable property within the corporate limits of the county in rate and amount sufficient to provide for the payment, when due, of the interest and principal of all such bonds maturing in each such fiscal year, and in the event the proceeds from the taxes so levied in any such fiscal year shall prove inadequate for the above purposes, additional taxes shall be levied in the succeeding fiscal year to make up any such deficiency. Such pledge of the full faith and credit and unlimited taxing power of the county shall constitute a covenant of the county to levy and collect the taxes hereinabove prescribed. The county may apply to the payment of principal and interest of any bonds issued for any of the above described public facilities, any funds received by it from the state, the United States of America, any agency of instrumentality thereof or any other source, if such funds are granted for the purpose of assisting the county in obtaining any such public facility, and to the extent of any such funds received or receivable in any fiscal year the taxes hereby required to be levied may be reduced proportionately.



In addition to the pledge of the full faith and credit and unlimited taxing power of the county to the payment of any bonds issued pursuant to this article, the county may secure such payment by the additional pledge of any assessments, taxes, fees or charges which the county is authorized and empowered to levy, impose and collect, and to the extent any such revenues received or receivable in any fiscal year are available for debt service, the ad valorem taxes hereinabove required to be levied may be reduced proportionately in such fiscal year. (Mont. Co. Code 1965, § 2-115; 1971 L.M.C., ch. 23, § 5.)

#### **Sec. 20-19. Negotiability of bonds.**

All such bonds shall have, and are hereby declared to have, as between successive holders, all the qualities and incidents of negotiable instruments under the negotiable instruments law of the state to the extent provided in section 8 of article 31 of the Annotated Code of Maryland, 1957, as amended from time to time and in title 8 of the Commercial Law Article of the Annotated Code of Maryland, 1957, as amended from time to time. (Mont. Co. Code 1965, §2-116; 1971 L.M.C., ch. 23, § 6.)

#### **Sec. 20-20. Bonds are exempt from state and local taxes.**

Any and all such bonds and the interest thereon and the income derived therefrom, in the hands of the holders thereof from time to time, shall be and are hereby declared to be exempt from state, county and city taxation of every kind and nature whatsoever in the state. (Mont. Co. Code 1965, § 2-117.)

#### **Sec. 20-21. Provisions of article cumulative.**

The powers granted by this article are additional and cumulative and the bonds authorized by this division may be issued notwithstanding that other bond acts or laws may provide for the issuance of other bonds or the borrowing of money for the same or similar purposes on the same or other terms and conditions. (Mont. Co. Code 1965, § 2-119.)

### **Article V. Certificates of Indebtedness.**

#### **Sec. 20-22. Citation of article.**

This article may be cited as the "Montgomery County self-insurance certificates of indebtedness act." (Mont. Co. Code 1965, §5-1; 1978 L.M.C., ch. 36, § 1.)

#### **Sec. 20-23. Definitions.**

(a) *Insurable losses.* The term "insurable losses" as used in this article includes:

(1) Physical loss or damage, including flood and earthquake, to real and personal property of the county or any participating agency; and

(2) Liability of the county or of any participating agency for damage:

a. Due to injury or death of a person; or

b. To real and personal property due to the negligence or wrongful act of a public official, employee, or agent of the county or a participating agency while acting within the scope of their duties.

(b) *Real and personal property; vehicles.* The term "real property" shall include land and all improvements thereon. The term "personal property" shall include fixtures and all personal property located in or on such land or buildings. The term "vehicles" means vehicles running on land or tracks but not aircraft.

(c) Loss to real and personal property by riot, strike, etc. Loss by riot, riot attending a strike or civil commotion shall also include loss from pillage and looting attending or following such riot, riot attending a strike or civil commotion. Loss by aircraft includes loss caused by falling aircraft or objects falling from aircraft. Loss to real and personal property shall include all loss herein described, whether or not caused by the negligence of the county or the board of education or any other person. (Mont. Co. Code 1965, § 5-2; 1978 L.M.C., ch. 36, § 1; 1986 L.M.C., ch. 44, § 1.)

#### **Sec. 20-24. Authority to borrow upon resolution.**

The county is hereby authorized, by resolution of the council, to borrow the sums from time to time upon its faith and credit as may be needed to cover the cost of reconstructing, replacing, repairing, or paying insurable losses, as that term is defined in this article, and to issue negotiable certificates of indebtedness therefor; provided, that the amount of certificates of indebtedness issued pursuant to this article and outstanding at any one (1) time must not exceed ten million dollars (\$10,000,000.00). (Mont. Co. Code 1965, § 5-3; 1978 L.M.C., ch. 36, § 1; 1986 L.M.C., ch. 44, § 1.)

#### **Sec. 20-25. Form; denomination; interest; maturity; exemption from state, etc., taxation.**

Certificates of indebtedness:

- (1) Must be in fully registered form;
- (2) May be issued in denominations of one hundred dollars (\$100.00) or any multiple of one hundred dollars (\$100.00);
- (3) Must bear interest at the rate or rates and be payable as to principal and interest at the times that the county executive determines, provided that the certificates must not mature later than ten (10) years after date of issuance; and
- (4) May be exempt from all state, county and city taxation of every kind and nature whatsoever in the state. (Mont. Co. Code 1965, § 5-4; 1969 L.M.C., ch. 37, § 1; 1978 L.M.C., ch. 36, § 1; 1986 L.M.C., ch. 44, § 1.)

**Sec. 20-26. Designation; amount of sale.**

Certificates of indebtedness must be designated as "Montgomery County self-insurance certificates of indebtedness" and may be sold from time to time and must be sold in the manner as the county executive determines; provided, that the same must not be sold at less than par and accrued interest. (Mont. Co. Code 1965, § 5-5; 1978 L.M.C., ch. 36, § 1; 1986 L.M.C., ch. 44, § 1.)

**Sec. 20-27. Use of proceeds.**

Upon issuance, the proceeds of certificates of indebtedness must be set aside from other county funds and used and applied only for payment of the costs of reconstructing, replacing, repairing, or paying insurable losses as defined in this article and the cost of printing and delivering and other expenses of issuance of the certificates of indebtedness, and any other incidental expenses, and the reimbursement of the general tax receipts of the county or participating agency for any money previously expended therefrom to cover the cost of the insurable losses. Any balance of the proceeds, together with any part of the sum so set aside which is not required for payment of the cost of the insurable losses, must be promptly applied to the payment of the certificates of indebtedness as they become due. (Mont. Co. Code 1965, § 5-6; 1978 L.M.C., ch. 36, § 1; 1986 L.M.C., ch. 44, § 1.)

**Sec. 20-28. Not subject to provisions of state law.**

Certificates of indebtedness shall not be subject to the provisions of sections 9, 10 and 11 of article 31 of the Annotated Code of Maryland, 1957. (Mont. Co. Code 1965, § 5-7; 1978 L.M.C., ch. 36, § 1.)

**Sec. 20-29. Issued on full faith and credit of county; payment, etc.**

All certificates of indebtedness are and shall be issued upon the full faith and credit of the county, which is hereby pledged to the punctual payment of the principal thereof and interest thereon, and they shall be payable from unlimited ad valorem taxes levied upon all assessable property within the corporate limits of the county and the resolution of the council authorizing the issuance of such certificates shall so provide. In each and every fiscal year that any such certificates are or will be outstanding, the county and the council shall levy or cause to be levied ad valorem taxes upon all the assessable property within the corporate limits of the county in rate and amount sufficient to provide for the payment, when due, of the interest and principal of all such certificates becoming due in such fiscal year. In the event the proceeds from the taxes levied in any such fiscal year shall prove inadequate for such payment, additional taxes shall be levied in the succeeding fiscal year to make up any such deficiency. (Mont. Co. Code 1965, § 5-8; 1978 L.M.C., ch. 36, § 1.)

**Sec. 20-30. Qualities and incidents of negotiable instruments.**

All certificates of indebtedness shall have, and are hereby declared to have, as between successive holders, all the qualities and incidents of negotiable instruments under the negotiable instruments law of the state, to the extent provided in section 10 of article 31 of the Annotated Code of Maryland, 1957, as amended. (Mont. Co. Code 1965, § 5-9; 1978 L.M.C., ch. 36, § 1.)

**Sec. 20-31. Maximum extent of issuance.**

No certificates of indebtedness shall be issued to the extent that the principal amount thereof, together with the principal amount of all bonds, certificates of indebtedness, notes or other obligations theretofore issued by the county and then outstanding which affect the debt limit of the county, shall exceed ten (10) percent upon the assessable basis of the county at the time of issuance of such certificates of indebtedness. (Mont. Co. code 1965, § 5-10; 1978 L.M.C., ch. 36, § 1.)

**Article VI. Bond Guarantee Program.**

### **Sec. 20-32. Legislative purpose.**

Under the authority of article 44A of the Annotated Code of Maryland, as amended, Montgomery County, may, at any time and from time to time, guarantee, upon its full faith and credit, revenue bonds of the housing opportunities commission in a total amount not exceeding fifty million dollars (\$50,000,000.00) to finance the acquisition, provision, development or rehabilitation of housing at rental rates and prices not being offered in adequate quantity by the private sector, or to finance in whole or in part mortgage loans secured by such housing and to fund related reserves and costs approved under the provisions of section 15, article 44A, Annotated Code of Maryland and this chapter. Mortgage loans so financed in part must be insured in part by the Federal Housing Administration, the Maryland Housing Fund, or a private mortgage insurer which is approved by either the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, and which private mortgage insurer is authorized to do business in the State of Maryland, or by any combination of such insurers. The housing opportunities commission shall adhere to the terms and conditions imposed by the county government in providing the guarantee of any bonds. Where such guaranteed revenue bonds will finance the total cost of such housing or the total amount of the mortgage loans for such housing, the housing opportunities commission shall also adhere to any requirements imposed by the county government after the issuance of the bonds to assure or protect the financial solvency of the project. The issuance of such bonds shall be subject to procedures for review and approval by the county government as hereinafter provided. (1978 L.M.C., ch. 36, § 2; 1983 L.M.C., ch. 32, § 1; 1988 L.M.C., ch. 28, § 1.)

### **Sec. 20-33. County executive review and recommendation.**

(a) Upon determination by the housing opportunities commission of the county to issue bonds under the authority of article 44A, Annotated Code of Maryland and this chapter, the housing opportunities commission shall provide the county executive and the county council simultaneously with information concerning the proposed bonds and the housing projects to be benefited by the funds from the sale of such bonds, including, but not limited to, the following:

- (1) Terms and conditions of the bonds;
- (2) Estimated bond interest rate, and the basis for the estimate;

(3) Estimated timing and other provisions concerning the advertising and sale of the bonds;

(4) Description of the proposed project with detailed estimates of construction and related costs to bring it to the point of readiness to rent or sell;

(5) Detailed estimates of operating cost and debt service;

(6) Schedules of reserves for depreciation and major maintenance;

(7) Rent schedule showing how, after allowance for vacancies, the revenues are expected to cover operating cost, debt service and capital cost, and reserves for depreciation and major maintenance;

(8) Separate schedule showing the cost, benefit and effect on rent schedules of additional safeguards to assure solvency of the project. These schedules would address such devices as mortgage insurance and debt service reserves, and would reflect the housing opportunities commission's recommendation of whether or not to use the devices and the reasons therefor;

(9) Description of the terms and conditions for construction of the project, including any safeguards against construction default and the conditions under which construction financing is to be provided by the housing opportunities commission;

(10) Description of the accounting system for recording and controlling expenditures of bond funds, debt service, operating cost, reserves and revenues;

(11) Explanation of the use of any reserves relating to bonds issued for the benefit of the project;

(12) Explanation of the potential obligations of the county arising from a default with respect to any bonds issued for the benefit of the project; and

(13) Any additional information which the county executive or county council may request from the housing opportunities commission within ten (10) days of receipt of all of the foregoing information.

(b) After consultation with the housing opportunities commission, the county executive may defer the requirement for

furnishing any of the foregoing information if the county executive determines that such a deferral will avoid delays which would adversely affect the timing of the financing for the proposed project. In any event, all of such information shall be furnished to the county executive and the county council at or prior to the public hearing hereinafter required.

(c) The county executive shall consider and comment on the feasibility of the proposed bond guarantee and each housing project contemplated by the proposed bond guarantee and shall recommend to the county council whether the proposed bond guarantee should be approved, including any terms and conditions which he or she may deem advisable for approval. The county executive's recommendations shall include a statement that the proposed project is fully self-supporting. The county executive's recommendations shall be supported by an independent feasibility study or studies furnished by the housing opportunities commission. The furnishing of the independent feasibility study or studies may be waived by the county executive in the case of projects financed, insured, or assisted by the state or federal government. The county executive's recommendations shall be made not later than the public hearing concerning a proposed bond guarantee. (1978 L.M.C., ch. 36, § 2; 1983 L.M.C., ch. 32, § 1.)

#### **Sec. 20-34. County council review and approval.**

Within forty-five (45) days from the date of the county council's receipt of all of the information required to be furnished in connection with a proposed bond guarantee or from the date of deferral of a portion of such information by the county executive, whichever first occurs, the county council shall hold a public hearing. The public hearing shall be held after not less than fifteen (15) days' notice by publication in a newspaper having general circulation in the county, giving the time, place and date of the hearing to afford an opportunity for the public to review the projects proposed to be benefited by the bond guarantee. After considering the recommendations of the county executive and after the public hearing, the county council shall approve, approve with modifications, or disapprove, the proposed bond guarantee, and shall by resolution specify such terms and conditions as it shall deem advisable for an approved bond guarantee. The terms and conditions shall include the maximum interest payable, the terms of the bond issue, the purposes for which the bond funds may be expended, and the method for controlling the expenditures of the bond funds and the revenues and expenditures for projects

financed by the bond funds. (1978 L.M.C., ch. 36, § 2; 1983 L.M.C., ch. 32, § 1.)

**Sec. 20-35. County executive concurrence, veto, council override.**

The council secretary shall submit any resolution of the council approving a bond guarantee to the county executive for approval within 3 days after adoption. If the county executive does not communicate disapproval of the resolution and the reasons for the disapproval to the council within 10 days after receiving the resolution, the council's approval stands. If the county executive disapproves the resolution, the council may override the disapproval by an affirmative vote of at least 6 councilmembers. The council may rescind the resolution approving a bond guarantee at any time before the bonds are advertised for public sale, or, in the case of a private sale, before the sale of the bonds or distribution of a related offering circular, whichever occurs first. (1978 L.M.C., ch. 36, § 2; 1983 L.M.C., ch. 32, § 1; FY 1991 L.M.C., ch. 11, §1.)

**Sec. 20-36. Bond guarantee endorsement; county guarantee and levy of ad valorem taxes.**

Each of the bonds issued pursuant to the authority of this chapter shall be endorsed by the guarantee of the county in the following language: "The payment of interest when due and the principal at maturity is guaranteed by Montgomery County, Maryland. The full faith and credit and unlimited taxing power of Montgomery County is hereby pledged to the performance of this guarantee." Such guarantee shall be executed in the name of the county and on its behalf on each of said bonds by the signatures of the director of finance and the secretary of the county council of the county, which signatures may be in facsimile. Such bonds, so endorsed, shall be unconditional general obligations of the county. Montgomery County, Maryland, hereby covenants and agrees that, in the event that all funds available to the housing opportunities commission for the payment of the principal of and interest on outstanding bonds authorized pursuant to this act are insufficient for any reason to meet such principal and interest payments, in each and every fiscal year in which any of such bonds are outstanding, it will levy or cause to be levied ad valorem taxes upon all the assessable property within the corporate limits of the county in rate and amount sufficient to provide for the payment, when due, of the principal of and interest on all such bonds maturing in such fiscal year, and in the event the proceeds from such taxes shall prove inadequate for the above purposes, it will levy



additional taxes in the succeeding fiscal year to make up any such deficiency. (1978 L.M.C., ch. 36, § 2; 1983 L.M.C., ch. 32, § 1.)

#### **Sec. 20-36A. Allocation of guarantee to finance mortgage loans and to fund related reserves and costs.**

Montgomery County, Maryland, allocates up to ten million dollars (\$10,000,000.00) of the total amount of the guarantee authorized by article 44A, Annotated Code of Maryland to guarantee bonds of the Housing Opportunities Commission of Montgomery County, the proceeds of which bonds shall be used to finance in whole or in part mortgage loans secured by housing and to fund related reserves and costs. Mortgage loans so financed in part must be insured in part by the Federal Housing Administration, the Maryland Housing Fund, or a private mortgage insurer which is approved by either the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, and which private mortgage insurer is authorized to do business in the State of Maryland, or by any combination of such insurers.

The housing opportunities commission shall not issue bonds which are guaranteed by the amount so allocated unless and until (1) the housing opportunities commission has submitted to the county executive and the county council the information required by section 20-33 of this chapter, except to the extent the receipt of any such information has been deferred by the county executive pursuant to section 20-33; and (2) the county executive has approved by executive order the use of all or a portion of the allocation as a guarantee of bonds issued for the purposes stated in this section; and (3) the county council has approved the use of all or a portion of the allocation as a guarantee of bonds, or has taken no action in connection with the use of such allocation within ten (10) calendar days after receipt of notice of approval by the county executive by executive order. The county council within the ten (10) calendar days may extend the time for its action by resolution. In the event that the county executive approves by executive order and the county council approves or takes no action with respect to the use of all or a portion of the allocation as a bond guarantee, no public hearing or further approval with respect to the bond guarantee shall be required. (1983 L.M.C., ch. 32 § 1.)

#### **Article VII. Insurance.**

#### **Sec. 20-37. Comprehensive insurance and self-insurance program.**

(a) It is the policy of the county government to provide an adequate comprehensive insurance program to compensate for injury to persons or damage to property resulting from negligence or other wrongful acts of the county's public officials, employees and agents and to provide protection for property of the county and for officials, employees, and agents acting within the scope of their duties.

(b) The county is hereby authorized and empowered to adopt or install a plan or system of group health and life insurance and group hospitalization in cooperation with the employees or any portion thereof in any office, agency or branch of the government of the county and with paid employees of quasi-public corporations engaged in the performance of governmental functions, such as fire departments, whenever it may deem such to be advisable in the interest of the health, comfort and welfare of the county.

(c) The county is further authorized and empowered to provide for an adequate comprehensive insurance program to compensate for injury or death of persons or damage to property resulting from negligence, deprivation of civil rights, malpractice or any other type of civil or tortious action resulting from the negligence or wrongful act of any public official, agent or employee within the scope of official duties. The county is also hereby authorized and empowered to provide for an adequate comprehensive insurance program including but not limited to comprehensive general liability, auto, fire, boiler, workmen's compensation and comprehensive auto liability. The insurance program may be provided by purchase of insurance coverage from insurance companies authorized to do business in the State of Maryland or it may be provided by a self-insurance program funded by appropriations by the county council or by a combination of purchased insurance coverage and self-insurance, subject to the granting of all necessary approvals by the State of Maryland for the self-insuring of workmen's compensation and comprehensive auto liability coverage. The insurance program shall provide for defense of claims as well as compensation for damages and the county is authorized within the limits of appropriations of the funded insurance program to engage necessary claims investigators and adjusters, to provide for defense with attorneys to be selected as provided in the charter, and to settle claims and pay lawful judgments.

(d) The county is further authorized to cooperate with and enter into agreements with participating agencies, including, but not limited to, the Montgomery County Board of Education, the fire departments and rescue squads, Montgomery College, the Montgomery County Revenue Authority, the housing opportunities commission, any bi-

county agency, any municipality or any other governmental agency within or without the State of Maryland, for the purpose of obtaining and providing comprehensive insurance coverage in the most economical manner. A participating agency includes the public officials, employees and agents of the participating agencies.

(e) A self-insurance program is established subject to the following conditions:

(1) The self-insurance program shall be known as the Montgomery County self-insurance program. Regulations governing the administration of the Montgomery County self-insurance fund shall be approved by the chief administrative officer of Montgomery County.

(2) The county attorney shall provide defense for claims against each participating agency, its public officials, employees and agents and shall consult with and advise counsel for each participating agency as to the status of each claim against the participating agency. Legal counsel for the participating agency may elect to enter into the defense of any claims against the participating agency, but such participation shall not be funded out of the self-insurance program unless authorized by the county attorney.

(3) Insurance protection furnished to the participating agencies by the Montgomery County self-insurance program will not be less than the coverage provided under the independent insurance programs of the participating agencies when they begin to receive coverage from the fund.

(4) The county council, upon the recommendation of the county executive, shall annually appropriate to the Montgomery County self-insurance program sufficient funds to provide for the program's premium cost, claim expense and adequate claims reserves in addition to providing for the operating requirements of the program's risk management operation.

(5) An interagency insurance panel is established to advise the participating agencies on risk management and all aspects of a comprehensive loss control program for the county self-insurance program. The panel will prepare standardized procedures for review and approval by the chief administrative officer of the county. The panel will consist of one (1) representative each from the participating agencies; the county representative be the director of the Montgomery County department of finance, who shall serve as chairperson of the panel. The representative from each other participating agency shall be designated by the administrative officer of the participating

agency. Such appointments shall remain in effect until such time as the county's finance director is advised that a new appointment to the panel has been made.

(6) The interagency insurance panel shall prepare an annual budget for the Montgomery County self-insurance program, which shall include a list of charge-backs required to provide insurance coverage to those county departments and funds that currently are charged by the county's finance department for their insurance coverage. The interagency insurance panel shall also include in the budget the amount which is required to adequately fund the county self-insurance program's unencumbered claims reserve according to the standards contained in this chapter. The panel shall contract with an insurance consultant as necessary to assist them in setting the claims reserve requirement and rate estimates contained in their recommended budget. The proposed budget of the Montgomery County self-insurance program shall be submitted to the administrative officer of each participating agency by the interagency insurance panel no later than November first of each year. Any comments which these officials wish to make on the proposed budget of the county self-insurance program shall be returned to the interagency insurance panel by November twelfth of that year. The interagency insurance panel shall submit the proposed budget of the county self-insurance program along with all comments received from administrative officers, if any, to the county executive, not later than December first of that year. The interagency insurance panel shall also prepare a list of all safety related expenses which they feel should be placed in the budgets of participating agencies along with a detailed justification for such expenses. This list shall accompany the proposed budget of the county self-insurance program throughout the budgetary process.

(7) Copies of all meeting minutes and applicable status reports prepared by the interagency insurance panel shall be provided to the administrative officer of each participating agency. Copies of all standardized procedures developed by the interagency insurance panel, in accordance with the requirements of this chapter, shall be provided to the administrative officer of each participating agency, following their approval by the interagency insurance panel and the chief administrative officer of the county.

(f) (1) Subject to appropriations, the county may, by order of the county executive, provide for securing the county self-insurance program in whole or in part by the establishment of trust funds or

escrow funds, with or without credit support, in an aggregate amount not to exceed ten million dollars (\$10,000,000.00).

(2) a. The form of credit support for the county self-insurance program may include but is not limited to a line or lines of credit with one (1) or more financial institutions in an amount not to exceed ten million dollars (\$10,000,000.00). The county executive may enter into a contract or contracts for the line or lines of credit under which the county may borrow the sums, from time to time and upon its full faith and credit, under the terms and conditions as may be appropriate in the judgment of the county executive, to implement the purposes of this article.

b. The provisions of chapter 11B of this Code do not apply to the selection by the county executive of a financial institution to furnish a line of credit.

c. Any advances under the line or lines of credit, together with any interest on the advances, are payable from unlimited ad valorem taxes levied upon all assessable property within the corporate limits of the county. In each and every fiscal year that any advances under the line or lines of credit are or will be outstanding, the county must levy or cause to be levied ad valorem taxes upon all the assessable property within the corporate limits of the county in rate and amount sufficient when combined with other available revenues to provide for the payment, when due, of the principal of and interest on the advances becoming due in the fiscal year. In the event the proceeds from the taxes levied and other available revenues in any fiscal year are inadequate for the payment, additional taxes must be levied in the succeeding fiscal year to make up the deficiency.

(g) This chapter, or any regulations adopted under this chapter, does not constitute or must not be interpreted as a waiver of the right of the county to rely on and raise the defense of sovereign or governmental immunity on behalf of the county or any participating agency when the county or the participating agency deems it appropriate. (1978 L.M.C., ch. 37, § 1; 1983 L.M.C., ch. 51, § 1; 1986 L.M.C., ch. 44, §§ 1, 2; 1993 L.M.C., ch. 22, § 1.)

**Editor's note**—Section 20-37 is interpreted in Montgomery County Board of Education v. Horace Mann Insurance Co., 154 Md. App. 502, 840 A.2d 220 (2003). This section is cited in Potter v. Bethesda Fire Department, Inc., 309 Md. 347, 524 A.2d 61 (1987) and in Potter v. Bethesda Fire Department, Inc., 59 Md. App. 228, 474 A.2d 1365 (1984). This section is interpreted in Utica Mutual Insurance Company v. Gaithersburg- Washington Grove Fire Department, Inc., 53 Md. App.

589, 455 A.2d 987 (1983) and is cited in King v. Gleason, 32 Md. App. 145, 359 A.2d 242 (1976).

## **Article VII. Department of Finance. [\[Note\]](#)**

### **Sec. 20-38. Powers and duties of director generally.**

The director of finance is hereby authorized and directed under the general direction of the county executive:

(a) *Audit of claims, vouchers, etc.* To audit and preaudit all accounts, claims, demands, or vouchers presented to the county for payment.

(b) *Accounting system, etc.* To prescribe the system of accounts, reports, and expenditure and receipt documents to be used by all of the officers of the county government, except as the same may now or hereafter be prescribed by law.

(c) *Financial records.* To keep the financial records of the county government, including payroll.

(d) *Investigations of county department; reports.* To make such investigation of the financial organization, activities and methods of procedure of the several county departments and establishments as he may be called upon to make by the county executive. In submitting any report, the director of finance may adopt as his the report of any independent public accountants retained by the county to the extent that the form and content on the report of such independent public accountants comply with the requirements relating to the report being submitted by the director of finance.

(e) *Inventory, storage, etc., management.* To coordinate the development and implementation of inventory, storage and other materials, management policies and practices of the county. (1986 L.M.C., ch. 37, § 2; 1989 L.M.C., ch. 42, § 4.)

### **Sec. 20-38A. Consent to state right of recovery.**

The Director of Finance may consent to recording in the County land records of a notice of the State's right of recovery, subject to the approval of the County Council, when required as a condition of a capital grant by the State to the County, or to a lessee or sublessee of the County, to improve property owned by the County. ([2000 L.M.C., ch. 24](#), § 1.)

**Sec. 20-39. Director designated treasurer and collector of taxes.**

The director of finance shall henceforth have all the powers and duties of the treasurer of the county and collector of taxes. (1986 L.M.C., ch. 37, § 2.)

**Sec. 20-40. Agent to assist director when acting as registrar of bonds, etc.**

Whenever it shall be in the best interests of the county, the county executive is authorized and empowered to designate an agent or agents to assist the director of finance acting in his capacity of registrar for the principal or interest of any issue of bonds, notes or obligations of the county, whether issued or to be issued, for which the director has been or may be named as registrar by any resolution or resolutions of the county council authorizing the issuance or sale of such bonds, notes or obligations. The terms and conditions of the appointment of such agent or agents shall be fixed by the county executive; provided, that such agent or agents shall in all cases be a national bank or shall be a bank and trust company regularly engaged in business in the state, and such national bank or bank and trust company shall have capital and surplus amounting to at least three million dollars (\$3,000,000.00). (1986 L.M.C., ch. 37, § 2.)

**Sec. 20-41. Collection of taxes and special assessments; receipt of and responsibility for money; service charge for dishonored checks or drafts.**

The director of finance shall collect all taxes and special assessments levied by the county council, and such other taxes and assessments the collection of which may by the Charter or public general or local law be charged to the department of finance. The director of finance shall receive all money paid to the county from any source. The director of finance shall not be responsible for money paid to persons or officials not under the director's direction or control, until such moneys have been properly transferred to the director of finance or someone designated by the director for receipt of such funds.

When any check or draft tendered to Montgomery County in payment of any tax, fee, charge, penalty, interest, or fine due the county is dishonored by a bank, a service charge of ten dollars (\$10.00) or such other reasonable amount as may be established by executive regulation, adopted by the county executive under method (3) of section 2A-15 of this Code, shall be imposed and added to the amount due and owing. The director may require that the total

amount due, including the service charge, be paid in cash, certified check or money order. (1986 L.M.C., ch. 37, § 2.)

#### **Sec. 20-41A. Tax information; Review and challenge of inaccurate property tax assessments.**

The Director of Finance or designee must:

(a) advise County residents and taxpayers generally of their rights under State and County tax laws; and

(b) protect the public interest by acting on behalf of the taxpayers and the County to:

(1) intervene in tax and assessment proceedings before administrative agencies and the courts;

(2) appeal decisions in tax and assessment proceedings; and

(3) take any other action permitted by law to review and challenge inaccurate property tax assessments. (1993 L.M.C., ch. 44, § 1.)

#### **Sec. 20-42. Disbursements generally.**

The director of finance shall make disbursements of county moneys in accordance with provisions of the laws of the state, the Charter of the county, the public local laws of the county, and the appropriations duly authorized by the council. The director of finance shall designate other persons in the department of finance who may disburse county money under his direction and during his absence. He shall keep the county executive informed as to all such persons so designated, and shall withdraw such authority upon request of the county executive. (1986 L.M.C., ch. 37, § 2.)

#### **Sec. 20-43. Collection of funds; record of collections and disbursements.**

It shall be the duty of every officer and employee receiving money or collecting funds for the county to issue a receipt to the person paying the money or remitting the funds when the payment or remittance is in cash. The receipt shall show the date, amount and purpose of payment or remittance. When payments or remittances are made by check, a receipt shall not be required to be issued, except upon request of the payor; and the canceled check, properly validated through the county collection system, shall constitute the payor's receipt. It shall be the duty of every officer and employee disbursing



money for the county to keep a record of the date, payee, check number, amount, and purpose of every disbursement made. The purpose of payment or remittance and disbursement may be shown by written description or a numerical code, as approved by the director of finance. (1986 L.M.C., ch. 37, § 2.)

#### **Sec. 20-44. bonds of officers and employees.**

(a) All officers and employees in the department of finance, including the director, shall furnish a bond to the county either separately or as a group or in groups, and each bond shall be approved by the county executive, and the premium therefor shall be paid by the county.

(b) All employees of the county who handle funds of the county, any part or subdivision thereof, or any agency operating therein, are hereby required to be bonded either individually or in a group to the county in such penalty as may be prescribed by the county executive, with a surety to be approved by the county executive, conditioned that such employee will well and faithfully perform his duties as an employee of the county, and will account for and pay over to the director of finance all sums of money so received by such employee. (1986 L.M.C., ch. 37, § 2.)

#### **Sec. 20-45. Collection of taxes by banks.**

On or before July 1 of each year, the director of finance shall designate the banking institutions in the county where taxes may be paid, and notice of such designations shall be attached to or printed on the back of all tax bills rendered by the county. Each such banking institution may be paid up to five cents (\$0.05) for each tax bill under which payment is received by it. On the first Monday of each month, each such banking institution shall report all collections received during the preceding month to the director of finance in such form as he shall prescribe, and all such collections shall be held or transmitted by the banking institution as the director of finance shall direct. (1986 L.M.C., ch. 37, § 2.)

#### **Sec. 20-46. Cost accounting systems.**

The county executive is hereby authorized in his discretion to install a cost accounting system or systems in any office, agency, or branch of the county government and to require that the accounts of such office, agency, or branch shall be kept in accordance with the system thus prescribed and installed. (1986 L.M.C., ch. 37, § 2.)

## **Article IX. Revenue Bonds.**

### **Sec. 20-47. Short title.**

This article may be referred to as the "Montgomery County Revenue Bond Act." (1986 L.M.C., ch. 52, § 1.)

### **Sec. 20-48. Definitions.**

The following definitions apply to this article:

- (1) *Construction* means acquisition, installation, reconstruction, or construction, or any combination of them.
- (2) *Costs of the project* means:
  - a. The funding of one (1) or more reserve funds that is necessary or desirable in connection with the financing of a project;
  - b. The cost of all land, property, rights, easements, and franchises that are necessary for the construction or improvement of any project;
  - c. The cost of all:
    - (i) Labor;
    - (ii) Materials;
    - (iii) Machinery;
    - (iv) Equipment;
    - (v) Furnishings;
    - (vi) Installing any equipment and furnishings;
    - (vii) Financing charges; and
    - (viii) Interest charged before and during construction, and for one (1) year after completion of construction;
  - d. The costs of:
    - (i) Engineering;
    - (ii) Architectural services;
    - (iii) Legal services;
    - (iv) Plans;

- (v) Specifications;
- (vi) Surveys;
- (vii) Estimates of costs and of revenues;
- (viii) Determining the feasibility or practicability of construction;
- (ix) Administrative expenses; and
- (x) Any other services that may be necessary or incident to the financing, construction, or improvement of a project, and of placing a project in operation.

(3) *Equipment and furnishings* mean any:

- a. Instrument;
- b. Apparatus;
- c. Accouterment or appointment; and
- d. Installation.

(4) *Improvement* means extension, enlargement or betterment, or any combination of them.

(5) *Project* means:

- a. Any system, structure, facility, or undertaking, all or a part of which is financed from the proceeds of revenue bonds; and
- b. Any real or personal property or any interest in the real or personal property, or any combination of them.

(6) *Revenue bonds* means bonds or other obligations issued by the county under section 5(P)(2) and (3) of article 25A of the Annotated Code of Maryland and this article. (1986 L.M.C., ch. 52, § 1.)

#### **Sec. 20-49. Authority to issue revenue bonds.**

(a) The county may issue revenue bonds payable as to principal, interest, and premium, if any, only from the funds or revenues received from or in connection with any project, all or part of which is financed from the proceeds of revenue bonds.

(b) The authority to issue revenue bonds must be exercised in the manner established in this article. (1986 L.M.C., ch. 52, § 1.)

### **Sec. 20-50. Adoption of resolution.**

(a) The county council must adopt a resolution to authorize the issuance of revenue bonds.

(b) The resolution must specify:

(1) The project to be financed in whole or in part by the revenue bonds; and

(2) The maximum principal amount of revenue bonds that may be issued for the project. (1986 L.M.C., ch. 52, § 1.)

### **Sec. 20-51. Duties of county executive.**

(a) The county executive must specify, prescribe, determine, provide for, or approve all matters, forms, documents, or procedures that the county executive deems appropriate to effect the authorization, sale, security, issuance, delivery, and payment of or for revenue bonds, subject to the limitations under this article and the resolution providing for the issuance of the revenue bonds.

(b) The county executive may:

(1) Provide for the maturity of revenue bonds on a date or dates that is no later than fifty (50) years from the date of the issuance of the revenue bonds;

(2) Fix the rate or rates of interest payable on revenue bonds, or the method of determining the rate or rates;

(3) Fix the denomination or denominations of revenue bonds and the place or places of payment of the principal, interest, and premium, if any; the place of payment may be at any bank or trust company within or without the state;

(4) Determine the form of revenue bonds and the manner of executing them and affixing the county seal to them, which may be in accordance with the Uniform Facsimile Signature of Public Officials Act; however, if any officer whose signature or a facsimile of whose signature appears on any revenue bonds ceases to be the officer before delivery of the revenue bonds, the signature or facsimile is valid and sufficient for all purposes the same as if the officer had remained in office until delivery;

(5) Provide for the manner in which revenue bonds may be sold, at either public or private (negotiated) sale, at a price that may be either at, above, or below par;

(6) Enter into agreements with agents, banks, fiduciaries, insurers, or others for the purpose of:

a. Pledging or otherwise assigning funds or revenues received from or in connection with any project;

b. Enhancing the marketability of any security for revenue bonds; and

c. Securing any tender option that may be granted to holders of revenue bonds; and

(7) Provide for:

a. The preparation of temporary bonds, to be exchanged for definitive revenue bonds when the latter are available for delivery; and

b. For the replacement of any revenue bonds that are mutilated, destroyed, or lost.

(c) The authority of the county executive under this article is not subject to the provision of chapter 11B of the Code. (1986 L.M.C., ch. 52, § 1.)

#### **Sec. 20-52. Application of bond proceeds.**

The proceeds from the sale of any revenue bonds must be applied only to:

(1) Pay the costs of the project for which the revenue bonds are authorized; or

(2) Any fund created for the payment of the revenue bonds. (1986 L.M.C., ch. 52, § 1.)

#### **Sec. 20-53. Rights of bondholders and fiduciaries.**

Unless a holder of revenue bonds is restricted by an agreement with the county, any holder of revenue bonds and any fiduciary in connection with them may:

(1) Protect and enforce any and all rights granted:

a. Under the laws of the state; or

b. In a resolution authorizing revenue bonds; or

c. In any agreement by the county relating to revenue bonds; and

(2) Compel the performance of all duties required by:

a. This article; or

b. A resolution authorizing revenue bonds; or

c. Any agreement by the county relating to revenue bonds, in accordance with law. (1986 L.M.C., ch. 52, § 1.)

#### **Sec. 20-54. Credit of county not pledged.**

(a) Revenue bonds are not indebtedness of the county within the meaning of the Charter and do not constitute a pledge of the full faith and credit of the county.

(b) All revenue bonds must contain a statement on their face to the effect that the full faith and credit of the county is not pledged to pay their principal, interest, or premium, if any. (1986 L.M.C., ch. 52, § 1.)

#### **Article X. Spending Affordability-Capital Budgets. [Note]**

##### **Sec. 20-55. Definitions.**

In this Article, the following terms have the meanings indicated:

(a) "*Aggregate capital budget*" means all capital budgets approved by the County Council.

(b) "*Capital improvements program*" means the comprehensive 6-year program for capital improvements submitted by the County Executive to the County Council under Section 302 of the Charter.

(c) "*Council*" means the County Council sitting as a spending affordability committee under Section 305 of the Charter. (CY 1991 L.M.C., ch. 29, § 2; 1997 L.M.C., ch. 33, § 1.)

##### **Sec. 20-56. Establishment of Guidelines.**

(a) *General.* The Council must adopt spending affordability guidelines for the aggregate capital budget under this Article.

(b) *Content.* The guidelines for the aggregate capital budget must specify the:

(1) total general obligation debt issued by the County that may be planned for expenditure in the first fiscal year under the capital improvements program;

(2) total general obligation debt issued by the County that may be planned for expenditure in the second fiscal year under the capital improvements program;

(3) total general obligation debt issued by the County that may be approved under the 6-year capital improvements program;

(4) total amount of debt, except refunding bonds, issued by the Maryland-National Capital Park and Planning Commission that may be planned for expenditure in the first fiscal year under the capital improvements program for projects in the County;

(5) total amount of debt, except refunding bonds, issued by the Maryland-National Capital Park and Planning Commission that may be planned for expenditure in the second fiscal year under the capital improvements program for projects in the County; and

(6) total amount of debt, except refunding bonds, issued by the Maryland-National Capital Park and Planning Commission for projects in the County that may be approved under the 6-year capital improvements program.

(c) *Procedures.*

(1) The Council must adopt spending affordability guidelines for the aggregate capital budget, by resolution, not later than the first Tuesday in October in each odd-numbered calendar year.

(2) The council must hold a public hearing before it adopts guidelines under paragraph (1).

(3) The Council may delegate responsibility for monitoring relevant affordability indicators to its standing committee with jurisdiction over spending affordability matters.

(4) Not later than the first Tuesday in February of each year, the Council may, subject to paragraph (5), amend the resolution establishing the guidelines to reflect a significant change in conditions. An amendment may alter a guideline by either an upward or downward adjustment in dollar amount.

(5) Any upward adjustment of a dollar amount under paragraph (4) for a guideline required by subsection (b)(1), (b)(2),

(b)(4), or (b)(5) must not exceed 10%. (CY 1991 L.M.C., ch. 29, § 2; 1997 L.M.C., ch. 33, § 1.)

#### **Sec. 20-57. Affordability Indicators.**

In adopting its guidelines, the Council should consider, among other relevant factors:

- (a) the growth and stability of the local economy and tax base;
- (b) criteria used by major rating agencies related to creditworthiness, including maintenance of a "AAA" general obligation bond rating;
- (c) County financial history;
- (d) fund balances;
- (e) bonded debt as a percentage of the full value of taxable real property;
- (f) debt service as a percentage of operating expenditures;
- (g) the effects of proposed borrowing on levels of debt per-capita, and the ability of County residents to support such debt as measured by per-capita debt as a percentage of per-capita income;
- (h) the rate of repayment of debt principal;
- (i) availability of State funds for County capital projects;
- (j) potential operation and maintenance costs relating to debt financed projects; and
- (k) the size of the total debt outstanding at the end of each fiscal year. (CY 1991 L.M.C., ch. 29, § 2; 1997 L.M.C., ch. 33, § 1.)

#### **Sec. 20-58. Approval of Capital Budgets.**

Any aggregate capital budget that exceeds the spending affordability guidelines in effect after the first Tuesday in February requires the affirmative vote of 7 councilmembers for approval. (CY 1991 L.M.C., ch. 29, § 2.)

### **Article XI. Spending Affordability-Operating Budgets.**

#### **Sec. 20-59. Definitions.**

In this Article, the following terms have the meanings indicated:



(a) *"Operating budget"* means the total amount appropriated from current operating revenues for the ensuing fiscal year, including any current revenue funding for capital projects.

(b) *"Aggregate operating budget"* means the operating budget minus any amounts appropriated for:

- (1) enterprise funds;
- (2) the Washington Suburban Sanitary Commission;
- (3) expenditures equal to tuition and tuition-related charges estimated to be received by Montgomery College; and
- (4) any grant which can only be spent for a specific purpose and which cannot be spent until receipt of the entire amount of revenue is assured from a source other than County government.

(c) *"Council"* means the County Council. (CY 1991 L.M.C., ch. 30, § 1; 1997 L.M.C., ch. 35, § 1; 1999 L.M.C., ch. 21, § 1.)

#### **Sec. 20-60. Establishment of Guidelines.**

(a) *General.* Spending affordability guidelines for the operating budget must be established in accordance with this Article.

(b) *Content.* The spending affordability guidelines for the operating budget must specify:

- (1) a ceiling on funding from ad valorem real property tax revenues; and
- (2) a ceiling on the aggregate operating budget.

(c) *Procedures.*

(1) The Council must adopt spending affordability guidelines for the operating budget by resolution not later than the third Tuesday in December of each year.

(2) The Council must hold a public hearing before it adopts the guidelines under paragraph (1).

(3) The Council may delegate responsibility for monitoring relevant affordability indicators to the Council's standing committee with jurisdiction over spending affordability matters.

(4) Not later than the second Tuesday after the General Assembly adjourns its regular session each year, the Council may

amend the resolution establishing the guidelines to reflect a significant change in conditions. An amendment may increase or decrease any guideline. However, any increase of a guideline adopted under subsection (b)(2) must not exceed the projected net increase in available resources since the guideline was adopted, applying the tax rates that were assumed in adopting that guideline and considering the rates of any tax approved or repealed since that guideline was adopted. (CY 1991 L.M.C., ch. 30, § 1; 1992 L.M.C., ch. 30, § 1; 1997 L.M.C., ch. 35, § 1; 1999 L.M.C., ch. 21, § 1.)

**\*Editor's note**-1999 L.M.C., ch. 5, § 1, states: "Notwithstanding any provision of Chapter 20 of the County Code to the contrary, including Section 20-60(c)(4) and Section 20-62, the County Council may increase the spending affordability guideline for the aggregate operating budget for fiscal year 2000 by more than 1% over any guideline previously adopted.

#### **Sec. 20-61. Affordability Indicators.**

(a) *Factors.* In adopting its guidelines, the Council should consider, among other relevant factors the condition of the economy, the level of economic activity in the County, and the impact of economic and population growth on projected revenues.

(b) *Advice.* To assist the Council in adopting and revising the guidelines, the Finance Director must each January, and at other times as necessary, consult with independent experts, who need not be County residents, from major sectors of the County economy. The experts should advise on trends in economic activity in the County and how activity in each sector of the economy may affect County revenues. The Director must report the experts' views annually to the Executive and Council. (CY 1991 L.M.C., ch. 30, § 1; 1997 L.M.C., ch. 35, § 1; 1999 L.M.C., ch. 21, § 1.)

#### **Sec. 20-62. Approval of Aggregate Operating Budget.**

Any aggregate operating budget that exceeds the ceiling on the aggregate operating budget in effect after the second Tuesday after the General Assembly adjourns its regular session requires the affirmative vote of 7 Councilmembers for approval. (CY 1991 L.M.C., ch. 30, § 1; 1992 L.M.C., ch. 30, § 1; 1997 L.M.C., ch. 35, § 1.)

**\*Editor's note**-1999 L.M.C., ch. 5, § 1, states: "Notwithstanding any provision of Chapter 20 of the County Code to the contrary, including Section 20-60(c)(4) and Section 20-62, the County Council may increase the spending affordability guideline for the aggregate

operating budget for fiscal year 2000 by more than 1% over any guideline previously adopted.

### **Sec. 20-63. Recommended Budget Allocations.**

(a) *Applicability.* Except for funds or budgets not included within the aggregate operating budget, in the resolution adopted under Section 20-60(c)(1) the Council must adopt recommended separate budget allocations for County government, the Board of Education, Montgomery College, and the Maryland-National Capital Park and Planning Commission, and for debt service and current revenue funding of capital projects.

(b) *Amendments.* To provide guidance to the standing committees of the Council in their budgetary deliberations, the Council may alter a recommended budget allocation by amending the resolution adopted under Section 20-60(c)(1) on or before the second Tuesday after the General Assembly adjourns its regular session.

(c) *Expenditure Reductions.* If a budget is submitted to the County Council that exceeds a budget allocation adopted under subsection (a) as revised under subsection (b), the County Executive (for all such budgets) and the governing board of the agency that initially prepared the budget must provide by the third Tuesday after the General Assembly adjourns its regular session:

(1) prioritized expenditure reductions that would be necessary to comply with the recommended budget allocation; and

(2) a summary of the effect on the agency's program of the recommended prioritization.

(d) *Added Information.* If the Executive or an agency submits a proposed amendment to the operating budget to the Council after the Executive has submitted the annual budget, and the proposed amendment would cause the budget for County government or the agency to exceed the budget allocation adopted under subsection (a) as revised under subsection (c), the Executive or agency must include with the amendment the information required in subsection (b). (CY 1991 L.M.C., ch. 30, § 1; 1992 L.M.C., ch. 30, § 1; 1997 L.M.C., ch. 35, § 1; 1999 L.M.C., ch. 21, § 1.)

### **Article XII. Revenue Stabilization Fund. [\[Note\]](#)**

### **Sec. 20-64. Findings and declaration of purpose.**

Montgomery County, along with the State of Maryland and its other political subdivisions, has recently experienced substantial funding shortfalls. The State, in order to allow its political subdivisions greater budgetary and fiscal flexibility in addressing those shortfalls, has authorized political subdivisions to establish "rainy day" or reserve accounts to accommodate future funding shortfalls.

It is in the best interest of the citizens of the County that a Revenue Stabilization Fund provide the County with greater budgetary and fiscal flexibility to address funding shortfalls.

The Revenue Stabilization Fund created in this Article is designed to accrue a balance during periods of economic growth and prosperity, when revenue collections exceed estimates. The Fund may be drawn upon during periods of economic slowdown, when collections fall short of revenue estimates. (1993 L.M.C., ch. 41, § 1.)

#### **Sec. 20-65. Definitions.**

In this Article the following terms have the following meanings, unless the context clearly indicates a different meaning:

(a) *Actual total revenues* means the combined total of income tax, real property transfer tax, recordation tax, and investment income as reported in the County's annual financial report.

(b) *Certified revenues* means revenues derived each fiscal year from the income tax, real property transfer tax, recordation tax, and investment income of the General Fund as certified by the Director on or before June 15.

(c) *Debt Service Fund* means the fund used to accumulate funds to pay general long-term debt principal, interest and related costs.

(d) *Director* means the Director of the Department of Finance.

(e) *Fund* means the Revenue Stabilization Fund created under this Article.

(f) *General Fund* means the general operating fund of the County which is used to account for all revenues and expenditures, except revenues and expenditures required to be accounted for in another fund.

(g) *Income tax* means the County income tax imposed under state law.

(h) *Investment income of the General Fund* means income derived from the investment of revenues from the General Fund.

(i) *Original projection* means the projection of total General Fund revenues for the next fiscal year approved by the County Council in the "Schedule of Revenue Estimates and Appropriations" resolution or any similar resolution.

(j) *Real property transfer tax* means the tax imposed under Sections 51-19 et. seq.

(k) *Recordation tax* means the tax imposed under Sections 12-101 et. seq., Tax-Property Article, Annotated Code of Maryland.

(l) *Revised forecast* means any revised projection of total General Fund revenues for the next fiscal year prepared by the Department of Finance. (1993 L.M.C., ch. 41, § 1.)

#### **Sec. 20-66. Revenue Stabilization Fund.**

(a) The Director may establish a Revenue Stabilization Fund to support appropriations which have become unfunded.

(b) The Fund is continuing and non-lapsing. (1993 L.M.C., ch. 41, § 1.)

#### **Sec. 20-67. Fund sources and maximum size.**

(a) The Fund must not exceed 10 percent of the average aggregate annual revenue derived from the income tax, real property transfer tax, recordation tax, and investment income of the General Fund in the 3 preceding fiscal years.

(b) The Director must compute the maximum amount of the Fund annually and report that amount to the County Council not later than June 15.

(c) The Fund is in addition to any surplus that may be accumulated under Section 310 of the County Charter. (1993 L.M.C., ch. 41, § 1.)

#### **Sec. 20-68. Mandatory contributions to Fund.**

(a) Subject to the limit set in Section 20-67(a), the mandatory annual contribution to the Fund must equal 50 percent of the product of the certified revenues estimated for the current fiscal year times the difference between:

(1) the annual percentage increase in the certified revenues projected for the next fiscal year, and

(2) the average annual percentage increase in the certified revenues collected in the 6 fiscal years immediately preceding the next fiscal year.

(b) A growth or decline in certified revenues which results from either an increase or decrease in County tax rates must be:

(1) excluded from revenues projected for the next fiscal year, and

(2) phased in in the average annual percentage increase calculation in the third, fourth, fifth and sixth years.

(c) If actual total revenues from the income tax, real property transfer tax, recordation tax, and investment income of the General Fund for the next fiscal year exceed the original projection, then 50 percent of the excess must be transferred to the Fund if doing so will not result in the 10 percent limit in Section 20-67(a) being exceeded. (1993 L.M.C., ch. 41, § 1.)

#### **Sec. 20-69. Discretionary contributions to Fund.**

The County Executive may recommend and the County Council may by resolution approve additional contributions to the Fund if doing so will not result in the 10 percent limit in Section 20-67(a) being exceeded. (1993 L.M.C., ch. 41, § 1.)

#### **Sec. 20-70. Transfer of contributions.**

The Director must transfer the mandatory contributions required by Section 20-68 and any discretionary contributions under Section 20-69 from the General fund to the Fund at the end of each fiscal year. (1993 L.M.C., ch. 41, § 1.)

#### **Sec. 20-71. Interest.**

All interest earned on the Fund must be added to the Fund. However, the Director must transfer interest earned on the Fund when the Fund exceeds 50 percent of the maximum Fund size authorized by Section 20-67(a) to the Debt Service Fund as an offset to the approved issuance of general obligation debt. (1993 L.M.C , ch. 41, § 1.)

#### **Sec. 20-72. Use of Fund.**

(a) After holding a public hearing and seeking the recommendation of the Executive, and if the Council finds that reasonable reductions in expenditures are not sufficient to offset the shortfall in revenue, the Council may by resolution approved by the Executive transfer an amount from the Fund to compensate for no more than half of the difference between the original projection of total General fund revenues for that fiscal year and a revised forecast of the General Fund revenues projected for the same fiscal year. If the Executive disapproves a resolution within 10 days after it is transmitted and the Council readopts it by a vote of 6 Councilmembers, or if the Executive does not act within 10 days after it is transmitted, the resolution takes effect.

(b) However, a transfer must not be approved unless 2 of the following conditions are met:

(1) The Director estimates that total General Fund revenues will fall more than 2 percent below the original projected revenues.

(2) Resident employment in the County has declined for 6 consecutive months compared to the same month in the previous year.

(3) A local index of leading economic indicators has declined for 3 consecutive months.

(c) The cumulative transfers from the Fund in any single fiscal year must not exceed half of the balance in the Fund at the start of that fiscal year.

(d) The funds transferred may only be used to support appropriations which have become unfunded.

(e) By an affirmative vote of 6 Councilmembers the Council after holding a public hearing and seeking the recommendation of the Executive may transfer amounts from the Fund without regard to the limits and conditions in subsections (a)-(c). (1993 L.M.C., ch. 41, § 1.)

### **Article XIII. Economic Development Fund.**

#### **Sec. 20-73. Fund created.**

(a) The Director of the Department of Finance must create an Economic Development Fund. This Fund is continuing and non-lapsing.

- (b) The Fund consists of:
- (1) all funds appropriated to it by the County Council;
  - (2) all payments on any loan from the Fund;
  - (3) all interest earned on funds in the Fund; and
  - (4) all funds received from any other public or private entity. (1995 L.M.C., ch. 29, § 1.)

#### **Sec. 20-74. Purpose of Fund.**

(a) The purpose of the Fund is to aid the economic development of the County by assisting private employers who are located or plan to locate or substantially expand operations in the County.

(b) Assistance to a private employer from this Fund may take the form of:

- (1) loans or grants of public funds as otherwise authorized by law;
- (2) transfers of real or personal property as otherwise authorized by law;
- (3) provision of services, when otherwise authorized, by a County agency; or
- (4) plans, studies, or other technical assistance.

(c) As used in this Article, "private employer" means any for-profit or nonprofit corporation or firm that is not owned, primarily funded, or controlled by a government agency. "Private employer" includes a lessor or supplier of real or personal property or services to a government agency. (1994 L.M.C., ch. 29, § 1.)

#### **Sec. 20-75. Use of Fund.**

(a) The Director may spend or allocate funds from this Fund on the basis of criteria defined in a Regulation adopted under method (1), including the following criteria:

- (1) the proposed assistance will materially improve the County's economy and advance County economic development objectives and strategies; or
- (2) the assistance is necessary to:



- (A) bring a significant number of new jobs to the County;
- (B) add a significant number of new jobs to an existing operation in the County;
- (C) retain a significant number of jobs at an existing operation in the County or
- (D) respond to other economic development objectives.

(b) The Executive must notify the Council at least 2 working days before the Executive offers assistance valued at more than \$100,000 to a private employer, including all fiscal analyses and other supporting documents. During a Council recess of one week or longer, the Executive must notify the Council at least 5 working days before the Executive offers assistance valued at more than \$100,000 to a private employer. If during either notice period the Council President notifies the Executive that more time is necessary for the Council to comment, the Executive must wait an additional 2 working days (or 5 working days during a Council recess) before offering assistance to the private employer.

(c) The notice required under subsection (b) must also specify the proposed terms of any assistance offered, including any repayment provisions.

(d) Unless expressly inconsistent with any other federal, state, or County law, the terms of any assistance from the Fund must require the recipient to meet certain performance criteria specified in the offer of assistance, including a repayment agreement unless the Executive describes why repayment of assistance is not required. (1995 L.M.C., ch. 29, § 1.)

#### **Sec. 20-76. Administration.**

(a) The Executive may adopt Regulations under method (1) to administer this Fund.

(b) The Executive must report by March 15 each year on the status and use of the Fund. This report can be included in the Executive's proposed budget. (1995 L.M.C., ch. 29, § 1.)

#### **Article XIV. Working Families Income Supplement.**

##### **Sec. 20-77. Payment of Supplement.**

The Director of Finance must pay each person who meets certain eligibility standards a Working Families Income Supplement. If the

Comptroller of the Treasury agrees, the Director may arrange for the Comptroller to pay the Supplement. To the extent that the Comptroller does not pay the supplement, the Director must pay it directly to each eligible person. (1999 L.M.C., ch. 23, § 1.)

#### **Sec. 20-78. Eligibility.**

(a) A person is eligible to receive the Working Families Income Supplement if the person is eligible to receive, and has applied for:

(1) the federal earned income tax credit, or any successor federal income tax credit; and

(2) the analogous state refundable earned income credit.

(b) The County Executive, by regulations issued under Method (1), may adopt other eligibility standards. However, those standards must not make any person ineligible to receive the Supplement who would be eligible under subsection (a). (1999 L.M.C., ch. 23, § 1.)

#### **Sec. 20-79. Amount of Supplement.**

The amount of the Working Families Income Supplement paid to each recipient must equal the amount of any refund the recipient receives from the State earned income credit program. The Executive, by regulations issued under Method (1), may increase the amount of the Supplement. (1999 L.M.C., ch. 23, § 1.)

#### **Sec. 20-80. Improper Payments; False Statements.**

A person who submits a false or fraudulent application, or withholds material information, to obtain a payment under this Article has committed a Class A violation. In addition, the person must repay the County for all amounts improperly paid and all accrued interest and penalties that would apply to those amounts as if they were overdue taxes. A person who violates this Section is liable for all court costs and expenses of the County in any civil action brought by the County to recover any payment, interest, or penalty. The County may collect any amount due, and otherwise enforce this Article, by any appropriate legal action. (1999 L.M.C., ch. 23, § 1.)

#### **Sec. 20-81. Administration; Regulations.**

The Director may require each eligible person to submit an application for the Working Families Income Supplement, and may take any other action necessary to administer the Supplement. The

Executive may issue regulations under Method (1) to implement this Article. (1999 L.M.C., ch. 23, § 1.)

## Endnotes

\*Editor's note-1999 L.M.C., ch. 5, § 1, states: "Notwithstanding any provision of Chapter 20 of the County Code to the contrary, including Section 20-60(c)(4) and Section 20-62, the County Council may increase the spending affordability guideline for the aggregate operating budget for fiscal year 2000 by more than 1% over any guideline previously adopted. Charter references-Department of finance, § 214; finance, § 301 et seq. Cross references-Appropriations for emergencies, § 2-14; borrowing money during emergencies, § 2-16; contract procurement [\[Note\]](#) methods and public ethics, ch. 11B; development rights fund, ch. 13A; fiscal matters relating to fire and rescue service, § 21-22 et seq.; financial assistance to nonprofit service organizations, ch. 23B; County municipal revenue program, ch. 30A; authority to levy tax for charitable or social relief, § 37-1; revenue authority, ch. 42; solid waste collection and disposal fund, § 48-43 et seq.; rehabilitation loan fund, § 56-1; homeowners replacement loan fund, § 56-2 et seq.; urban renewal grants or loans to municipalities, § 56-21 et seq.; tenant displacement aid fund, § 56-33 et seq.

\*Editor's note-1986 L.M.C., ch. 37, § 2, added art. VIII, §§20-38-20-46. Sections 20-38-20-43 had previously been repealed by 1977 L.M.C., ch. 39, § 1 Section 20-44 had been repealed by 1977 L.M.C., ch. 39, § 1, then renumbered [\[Note\]](#) as §20-37 by 1978 L.M.C., ch. 37, § 1. Sections 20-45-20-54 had been renumbered as §§ 20- 22-20-31 by 1978 L.M.C., ch. 36, § 1. Cross reference-Department of finance established, § 1A-201(a).

\*Editor's note-Prior to its repeal and reenactment by CY 1991 L.M.C., ch. 29, Art. X was entitled "Spending Affordability;" [\[Note\]](#) consisted of §§ 20-55-20-59, and was derived from CY 1991 L.M.C., ch. 1, § 1.

\*Editor's note-This article is derived from 1993 L.M.C., ch. 41, § [\[Note\]](#) 1. Section 2 declared the provisions effective fiscal year 1995, i.e., July 1, 1994.

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